

REMARKS

The specification has been amended on page 1, to delete the paragraph encompassing lines 3-11, since no application had actually been filed as described therein.

The Examiner has objected to the specification as failing to provide proper antecedent basis for the claimed subject matter.

Applicants believe that the Examiner is mistaken. In particular, the claim term "playlist generator" may be found in the specification as filed on page 1, lines 1-3, 7-11, page 2, lines 3-14, etc. The claim term "user interface" is described in the specification on page 2, line 25 to page 3, line 2, and page 3, lines 12-28. The claim term "artist similarity module" is described in the specification on page 2, lines 25-28. The claim term "artist selector" is described in the specification on page 4, lines 5-19. The claim term "item selector" is described in the specification on page 4, lines 20-21, and page 5, lines 8-20.

The claims have been amended to more clearly define the invention as disclosed in the written description. In particular, claim 7 has been cancelled, while claim 1 has been amended to include the limitations of cancelled claim 7. In addition, the claims have been amended for clarity.

The Examiner has rejected claims 1-12 under 35 U.S.C. 101 in that the claimed invention is directed to non-statutory subject matter.

Applicants believe that the Examiner is mistaken. Firstly, while parts of the "system" may be configured in software, it

should be noted that the claims include structure, i.e., the "user interface" having a display and having means for enabling a user to enter instructions. A user cannot interact with software (or electrical signals) directly. Rather, a user may only interact using at least one of his/her senses, i.e., sight, sound, smell and feel. As such, a user interface **inherently** includes at least one physical/hardware transducer for transducing signals which may originate from software into a form perceptible by the user, as well as at least one transducer for transducing inputs from the user to electrical signals or software instructions. In the present case, the user interface includes a display - hardly "a component of the computer software per se" - and means for enabling a user to enter instructions. As such, these claims cannot be considered merely a computer program, and as such are indeed statutory.

The Examiner has rejected claims 1-7, 12-15 and 20 under 35 U.S.C. 103(a) as being unpatentable U.S. Patent Application Publication No. 2003/0229537 to Dunning et al. in view of U.S. Patent 6,933,433 to Porteus et al. The Examiner has further rejected claims 8-10 and 16-18 under 35 U.S.C. 103(a) as being unpatentable over Dunning et al. in view of Porteus et al., and further in view of U.S. Patent 5,616,876 to Cluts. In addition, the Examiner has rejected claims 11 and 19 under 35 U.S.C. 103(a) as being unpatentable over Dunning et al. in view of Porteus et al., and further in view of the article "PATS: Realization and User Evaluation of an Automatic Playlist Generator" by Pauws et al.

Dunning et al discloses a system, method, and computer program product to discover relationships among items and recommend items based on the discovered relationships. The recommendations provided are based on user profiles that take into account actual preferences of users, without requiring users to complete questionnaires. A binomial log likelihood ratio analysis technique is applied, to reduce adverse effects of overstatement of coincidence and predominance of best sellers. The system may be used, for example, to generate track lists for a personalized radio station (see abstract).

As explained with reference to Figs. 5 and 6 and paragraph [0150], the method according to Dunning et al. identifies tracks that are related to a particular track. Artists for the related tracks are identified and stored in a related artists database.

As explained in paragraph [0213], when the user makes a query, related tracks, albums or artists are provided.

The Porteus et al. patent discloses a method for producing playlists for personalized music stations and for transmitting songs on such playlists.

Claim 1 includes the limitation "said user interface displaying the artist list for the user, and further comprising means for facilitating approval or modification of the artist list by a user".

The Examiner has indicated that Dunning et al. "does not explicitly teach a method where the interface allows the user to approve or modify the artist and artists are selected

interactively," but that Porteus teaches this limitation and states, quoting from Porteus "i.e. the user is presented with a plurality of artist blocks for each supergenre, along with the names of selected artists that have been categorized in each block when appropriate. The user is then asked for his or her preferences relating to the desirability of including such blocks into his/her station's rotation, as shown in block 12. In the preferred embodiment of the invention, the user is given four choices for the user's interest in hearing songs from each artist block, ranging from "Never" to "a Lot", with two levels of "Sometimes" in between. The user's expression of interest is used to adjust the preliminary ratings for all of the artists in that block".

Applicants submit from the above that it should be clear that the user interface in Porteus et al. enables the user to rate the artists in each block. However, there is no disclosure or suggestion of the user interface enabling the user to approve the artist list, or enabling the user to modify the list. Rather, the ratings given by the user MAY cause the Porteus et al. apparatus to modify or not modify the artist list.

The Cluts patent discloses a system and methods for selecting music on the basis of subjective content, in which the user selects a seed song. The system identifies other artists who have the same style as the seed song artist. After the matching artists are identified, the system compiles a list of the songs performed by those artists.

Applicants therefore submit that Cluts fails to supply that which is missing from Dunning et al. and Porteus et al., i.e., "said user interface displaying the artist list for the user, and further comprising means for facilitating approval or modification of the artist list by a user".

The Pauws et al. article discloses a playlist generator in which, arguably, songs are clustere based on a similarity measure that selectively weighs attribute values of songs. However, Applicants submit that Pauws et al. does not supply that which is missing from Dunning et al., i.e., "said user interface displaying the artist list for the user, and further comprising means for facilitating approval or modification of the artist list by a user".

In view of the above, Applicants believe that the subject invention, as claimed, is not rendered obvious by the prior art, either individually or collectively, and as such, is patentable thereover.

Applicants believe that this application, containing claims 1-6 and 8-20, is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

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